

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

UNITED STATES OF AMERICA,	:	
Plaintiff,	:	Case No. 3:12CR132
vs.	:	JUDGE BLACK
BRIAN ROHRBACK,	:	
Defendant.	:	

JOINT SENTENCING MEMORADUM

Now come the Defendant, Brian Rohrbach, by and through counsel, and the United States, by and through counsel, and hereby submit this Joint Sentencing Memorandum for the Court's consideration in determining a sentence that comports with the sentencing factors found at 18 U.S.C. § 3553(a).

JOINT SENTENCING RECOMMENDATION

On February 14, 2013, Brian Rohrbach pled guilty to counts One and Four of the Indictment, charging him with Coercion and Enticement and Distribution of Child Pornography, respectively. The United States and the defendant agree with the Probation Office that the applicable Guideline calculation yields an advisory sentencing guideline range of 360 months to life imprisonment, based upon a final base offense level of 42 and a criminal history of I. However, the sentencing Guideline is advisory and only one of several factors for the Court to consider in determining a sentence that effectuates the goals enumerated under 18 U.S.C. § 3553. Given the other statutory sentencing factors, the parties have jointly agreed that the facts and

circumstances of this particular case support a sentence of 240 months (20 years) of imprisonment. The parties agree that this lengthy term of imprisonment is necessary in order to reflect the seriousness of the offense and promote respect for the law. Rohrback's offense conduct involved the coercion and enticement of young men to participate in illegal sexual activities. In addition, Rohrback was found to be distributing child pornography through the use of his computer. The combined total of images and/or videos of child pornography found to be in Rohrback's possession was 4,005. (PSR ¶ 62). While Rohrback's conduct warrants significant punishment, the parties agree that a sentence of 240 months is sufficient but not greater than necessary to meet the goals of sentencing.

Rohrback cooperated with law enforcement by providing them with information regarding his federal offense conduct and his attraction to younger males. He admitted that he had communicated with minor males through the use of the computer and had engaged in sex acts with them. He informed agents that he did possess child pornography and that he delete and then re-collect child pornography countless times. Rohrback did not deny any of his conduct. Rohrback has expressed a desire to receive treatment and rehabilitation. His mental and emotion health is noted in the Final Pre-Sentence Report (PSR) as well as the evaluation provided by the Bureau of Prisons, which the parties incorporate herein.

Had this matter proceeded to trial, it would have been very likely that the teen age boys referenced in the PSR would have been required to testify. However, because Rohrback accepted responsibility and cooperated with the investigation, in addition to agreeing to enter a plea of guilty, the boys were spared the potentially harmful psychological effects of testifying about personal and sensitive matters. Further, by Rohrback entering a plea of guilty, he permitted the United States to focus its resources on other, more complicated matters.

Because of the above reasons, the parties submit that a sentence below the advisory Guideline recommendation will achieve the punitive, deterrent, and rehabilitative purposes of sentencing. As such, a sentence of 20 years (240 months) will not depreciate the seriousness of Rohrbach's crime and is sufficient, but not greater than necessary to achieve the overall goals of sentencing.

CONCLUSION

Wherefore, the defendant and the United States jointly request that this Court impose a sentence of 240 months (20 years), which is "sufficient but not greater than necessary" to achieve the purposes of sentencing set forth in 18 U.S.C. 3553(a).

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon all parties, via electronic court filing, on this 28th day of October, 2013.

s/ Christy L. Muncy
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